IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 2052 OF 2007

Susi Savio ....Petitioner.
V/s
Savio Alexander & Anr ....Respondents.

Mr.Joseph T.S., Adv. For the petitioner.

Mr.C.K.Thomas with Mr.Sasi Nair, Adv. For respondent No.1.

CORAM: A.P.DESHPANDE, J.
13/7/07

PC:

The petitioner is a wife whereas the respondent is the husband. An interlocutory order passed by the Family Court, Bandra dated 3.3.07 is challenged by filing present writ petition. The husband has filed a petition for divorce in the year 1998 and the said petition is still pending and undecided.

2. The present petitioner-wife moved an application for permission to examine her four witnesses named in application at Ex.88 stationed abroad by video conferencing. The trial Court has permitted examination of one of the witnesses by name Father George Manjumgal, residing at St.Mary 261, East Eighth Street, St. Paul, Minnessota-55101 by video conferencing with the help of Court Commissioner. However grievance of the petitioner is that the evidence of the said witness has been

restricted only to one incident referred to in para 13 of the impugned order. The learned counsel for the petitioner submits that there was no justification for the Family Court to have restricted examination of the said witness only to one incident. The learned counsel for the respondent does not oppose the request made by counsel for the petitioner to have the said witness examined touching all the issues. Counsel for the petitioner submits that the petitioner does not propose to examine four witnesses as decided earlier while filing application at Ex.88 but would be examining two witnesses by name Father George Manjumgal whose name has been referred to in the operative part of the order and one Elasamma Kuriakose. Father George Manjumgal is stationed in USA whereas other witness Elasamma Kuriakose is stationed in UK. Both the learned counsel appearing for respective parties are in agreement that the evidence of both the witnesses to be examined by the petitioner would be recorded by video conferencing without filing an affidavit of examination in chief. It is clarified that the examination in chief so also cross examination shall be recorded by the Commissioner without there being any affidavit filed of examination in chief. Thus now there is no dispute in this regard. Both the learned counsel for respective parties agree that the petitioner shall make arrangement for recording of evidence of both the witnesses with the help of the Court Commissioner to be appointed by the trial Court. Thus the dispute

raised in writ petition No.2052 of 2007 stands resolved on account of the agreement between the learned counsel appearing for respective parties, referred to herein above. Thus the order impugned stands modified to the above extent. Learned counsel for the petitioner assures this Court that without any further delay the video conferencing would be arranged by the petitioner after intimating the date to the Family Court. Counsel for the petitioner undertakes to arrange on behalf of the petition video conferencing within a period of three weeks from today. Failure to do so would dis-entitle the petitioner to examine any witness. Both the learned counsel make a request that in addition to recording of evidence by Court Commissioner the Court Commissioner should also be directed to tape record the evidence of witnesses, for which arrangement shall be made by the petitioner. Request granted. Writ Petition thus stands disposed of. Having regard to the fact that divorce petition had been filed in the year 1998 both the learned counsel appearing for respective parties assure this Court that they shall cooperate with the Family Court in having expeditious disposal of marriage petition. Needless to mention that in view of the disposal of the Writ Petition interim order of stay stands vacated.

13.7.07